

## LEGISLATIVE ETHICS BOARD RULE 5: PENALTIES

### . Purpose.

The purpose of this rule is to set out the criteria that the board may consider when imposing sanctions for a violation of chapter 42.52 RCW and the rules adopted under it in accordance with RCW 42.52.320(2)(g).

### B. Board may impose sanctions.

If the board finds a violation of chapter 42.52 RCW or rules adopted under it, the board may impose one or more of the following sanctions pursuant to RCW 42.52.480:

(1) Reprimand either by letter or in formal reprimand;

(2) A civil penalty of up to five thousand dollars per violation or three times the economic value of any thing sought or received in violation of chapter 42.52 RCW or rules adopted under it, whichever is greater. Payment of the civil penalty shall be reduced by the amount of costs paid pursuant to subsection (4);

(3) Payment of damages sustained by the state that were caused by the violation and were not recovered by the state; and

(4) Costs, including reasonable investigative costs, that do not exceed the amount of any civil penalty.

### . Criteria for determining sanctions.

In determining the appropriate sanction, including the amount of any civil penalty, the board may consider the following factors as well as other factors which the board may find appropriate in a particular case:

(1) The monetary cost of the violation, including:

(a) The cost of the violation to the state;

(b) The value of anything received or sought in the violation;

(c) The amount of any damages incurred by the state as a result of the violation;

(d) The costs incurred in enforcement, including reasonable investigative costs;

(2) The nature of the violation, including whether the violation:

- (a) Was continuing in nature;
- (b) Was motivated by financial gain;
- (c) Involved criminal conduct;
- (d) Impaired a function of the agency;
- (e) Tended to significantly reduce public respect for or confidence in state government or state government officers or employees;
- (f) Involved personal gain or special privilege to the violator;

(3) Aggravating circumstances including whether the violator:

- (a) Intentionally committed the violation with knowledge that the conduct constituted a violation;
- (b) Attempted to conceal the violation prior to the filing of the complaint;
- (c) Was untruthful or uncooperative in dealing with the board or the board's staff;
- (d) Had significant official management, or supervisory responsibility;
- (e) Had committed prior violations found by the board;
- (f) Incurred no other sanctions as a result of the violation;

(4) Mitigating factors including:

- (a) Prior corrective action taken against the violator;
- (b) Prior recovery of damages to the state;
- (c) The unethical conduct was approved or required by the violator's supervisor or agency;
- (d) The violation was unintentional;
- (e) The violator relied on advice from board staff or designated ethics advisers;
- (f) Other mitigating factors deemed relevant by the board.

**D. Payment of civil penalty.**

Payment of any monetary penalty assessed by the board must be made within 45 days of the date of the board's order, unless an extension is granted by the board. Payments are the personal responsibility of the officer or employee against whom the penalty is assessed.

**E. Recommendations or request to others.**

In addition to any sanctions imposed by the board, the board may take one or both of the following actions:

(1) Recommend to the appropriate authority suspension, removal from the position, or prosecution or other appropriate remedy, as provided by RCW 42.52.470, .520;

(2) Request that the attorney general bring an action pursuant to RCW 42.52.510 to cancel or rescind a state action taken by the violator upon a board finding that:

(a) The violation has substantially influenced the state action and

(b) Interests of the state require cancellation or rescission.